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**OFFICE OF PETITIONS**

In re Application of  
Seeley, Lynch, Myers, Lewis, Lloyd & Kayfes  
Application No.: 10/607,517  
Filed: June 26, 2003  
Attorney Docket No.: P2002,0542

DECISION REFUSING STATUS  
UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed October 18, 2004 (certificate of mailing date October 13, 2004).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on June 26, 2003 without an executed oath or declaration. Applicants' petition to revive, filed March 9, 2004 (certificate of mailing date March 4, 2004), was dismissed on August 13, 2004 for failure to establish that non-signing inventors Charles Seeley, Jason Lewis, Stacey Lloyd and Paul Kayfes were not available to execute the declaration.

The instant reconsideration was timely filed on October 18, 2004 (certificate of mailing date October 13, 2004).

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

The declaration contains noninitialed, nondated alteration to Paul Kayfes' information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether

noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a).

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Kayfes can correct his information on a supplemental declaration identifying the entire inventive entity and their information, but signed only by him.

Further correspondence with respect to this matter should be addressed as follows:

**By mail:** Mail Stop PETITION  
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